

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EARL HAYES,

Plaintiff,

v.

BRADY CONDLIN, *et al.*,

Defendants.

No. 22-CV-7295 (KMK)

ORDER

KENNETH M. KARAS, United States District Judge:

Plaintiff commenced this Action on August 25, 2022, pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. (*See* Compl. (Dkt. No. 1).) Defendants filed a Motion to Dismiss on May 9, 2023 (*See* Mot. To Dismiss (Dkt. No. 13).) On February 26, 2024, the Court issued an Opinion and Order granting Defendants’ motion in part and denying it in part. (Op. and Order (Feb. 24, 2024) (Dkt. No. 18).) The Court directed Plaintiff to file an amended complaint within 30 days amending the claims that had been dismissed, or risk the dismissed claims being dismissed with prejudice. (*See id.* at 24.)

Plaintiff failed to file an amended complaint. On April 12, 2024, Defendants filed a letter requesting dismissal with prejudice of the claims that had been dismissed in the Court’s Opinion and Order. (*See* Ltr. from Defendants to Court (Apr. 12, 2024) (Dkt. No. 20).) On April 15, 2024, the Court ordered the Plaintiff to respond to the Defendants’ letter by April 22, 2024. (*See* Memo Endorsement (Dkt. No. 21).) Despite warning Plaintiff that failure to meet the deadline could “result in dismissal with prejudice” of the claims that were previously dismissed, no amended complaint was timely filed. (*Id.* at 2).

On May 2, 2024, the Court ordered Plaintiff to show cause within 30 days as to why the dismissed claims should not be dismissed with prejudice for failure to prosecute. (Order (Dkt. No. 22).) Plaintiff failed to timely respond. However, on July 8, 2024, Plaintiff filed a “Putative Amended Complaint.” (*See* Putative Am. Compl. (Dkt. No. 24).)

Notwithstanding Plaintiff’s repeated failures to meet deadlines set by the Court, given the solicitude typically afforded to pro se litigants, the Court accepts the Putative Amended Complaint for filing. Therefore, it is:

ORDERED that the Clerk of Court is respectfully directed to file Plaintiff’s Amended Complaint. IT IS FURTHER ORDERED that within their time to answer, Defendants either should file an answer or submit a pre-motion letter consistent with the Rule II.A of the Court’s Individual Rules.

SO ORDERED.

Dated: October 28, 2024
White Plains, New York

A handwritten signature in black ink, appearing to read 'K. Karas', written over a horizontal line.

KENNETH M. KARAS
United States District Judge